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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/432,811	11/04/1999	DAVID FELGER	02416.84535	1586

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EXAMINER

CAMPEN, KELLY SCAGGS

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/432,811

Applicant(s)

FELGER, DAVID

Examiner

Kelly Campen

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 127-189 is/are pending in the application.
- 4a) Of the above claim(s) 127-174, 188 and 189 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 175-187 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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## DETAILED ACTION

### *Election/Restrictions*

Claims 127-174 and 188-189 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/16/03.

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 175-187 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed method consists solely of the manipulation of an abstract idea and is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459. In addition, the claim is devoid of any limitation to a practical application in the technological arts and includes merely a trivial use of technology (see MPEP 2106).

For a claim to be statutory, it must be in the technological arts (see *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974)). The invention in the **body** of the claim must recite technology. If the invention, in the body of the claim, is not tied to technological art, environment, or machine, the claim is not

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statutory (see Ex parte Bowman, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001).

Also note MPEP 2106 IV 2(b). Examiner notes that this is not a precedential decision but it is being cited for its analysis of whether the claim is in the technological arts.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 175-187 are rejected under 35 U.S.C. 102(e) as being anticipated by Joao et al. (US 6047270A).

Joao et al. disclose a method for effecting a sale using a communication network (col. 8, lines 10-25) by storing a plurality of predetermined sale limits for a plurality of users (col. 8, lines 25-45), receiving a transmitted request for sale transaction (col. 6, lines 5-20), receiving information transmitted from a user in the sale transaction, using the information from the user in the sale transaction to identify a predetermined sale limit for the user in the sale transaction and limiting the user in the sale transaction to the predetermined sale limit (see col. 8, lines 5-65).

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Specifically as to claim 176, where the predetermined sale limit identifies a maximum sale amount permitted within a predetermined period of time (see col. 8, lines 25-45).

Specifically as to claim 177, where the information transmitted from a user is a password (see col. 7-8).

Specifically as to claim 178, where the password is a personal identification number (see col. 7-8).

Specifically as to claim 179, where the information transmitted from a user includes address information associated with the user (see col. 11-12).

Specifically as to claim 180, where the address information is a computer network address (see above for claim 179).

Specifically as to claim 181, where the address information is a billing address (see above claim 179).

Specifically as to claim 182, verifying the address information, (see col. 8-9).

Specifically as to claim 183, determining a sale limit for a user for whom no predetermined sale limit has been stored in the step of storing (see col. 8).

Specifically as to claim 184, consulting one or more external databases (see col. 8).

Specifically as to claim 185, external database is a banking institution (see cols. 6 and 8).

Specifically as to claim 186, effecting the sales transaction, storing information identifying an amount of the transaction, and using the information (see cols. 6 and 8).

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Specifically as to claim 187, reducing a user's predetermined sales limit based on the stored information identifying an amount of the sales transaction (see cols. 5, 6, 8).

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Foladare et al. (US005914472A) disclose a credit card spending authorization control system. Watson (US005991750A) discloses a method for preauthorization of individual account transactions. Nagata et al. (US 4594663) disclose a credit transaction processing system. Michels et al. (US 3719927) disclose a credit control system.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Campen whose telephone number is (703) 308-0780. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksc



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